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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Royal Oak, MI 48067

EXAMINER

GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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3727

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/511,473	Applicant(s) MARMOY ET AL.	
	Examiner Gary K. Graham	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20050207</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, line 3, there is no antecedent basis for “the pivot pin”.

In claims 6-8, line 2, there is no antecedent basis for “said shaft”. Further, use of a hyphen in the language “said protrusion (11)/said shaft” appears confusing. Is applicant claiming both structures or an alternative type structure? Clarification is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 9, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmid et al (WO patent 02/04269).

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The patent to Schmid discloses the invention as is claimed, including a wiper device (figs.1,2) having an elongated elastic carrier of spaced spring strips (3) that are provided in spaced opposing grooves (4) of wiper blade (2). Neighboring ends of the strips are connected by separate pieces (13). A connecting device (14) is provided with unitary members (18) which engage on the strip edges to pivotally connect the device to a pin-type wiper arm (8). Schmid also discloses the connecting device welded, as at (17), to longitudinal sides of the strips (3) that face away from one another.

With respect to claim 1, it appears the welding of Schmid will act in a manner to withstand shearing forces, at least as far as such defines any particular structure.

With respect to claim 2, the manner of welding operation relates to the method of manufacture and does not appear to distinguish in the product claim, at least as far as set forth here.

With respect to claim 10, the connecting pieces are considered as “form locked” to the ends of the strips, as far as such defines any particular structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmid et al (WO patent 02/04269) in view of Besnard (US patent 3,659,309).

The patent to Schmid discloses all of the above recited subject matter with the exception of the wiper arm having substantially cylindrical protrusions extending laterally from an end thereof that engage within a recess in the connecting device.

The patent to Besnard discloses a wiper device (figs. 3,4) wherein the wiper arm (1) has substantially cylindrical protrusions (17), which form bearing surfaces, extending in lateral directions from an end thereof. The protrusion are pivotally mounted in correspondingly shaped upwardly open recesses (20) provided in the plastic connecting device (10a). The connecting device is coupled with the carrier element (2) for supporting a wiper blade. The protrusions and recesses are shaped to enable passing of the protrusions into the recesses when the arm is substantially perpendicular to the blade and prevent passing when the arm is substantially parallel to the blade.

It would have been obvious to one of skill in the art to provide the connecting device of Schmid with upwardly open, shaped recesses therein, as is clearly suggested by Besnard, such that it can receive shaped protrusions from a wiper arm. Such would enable quick attachment and detachment of the arm to the blade by mere pivoting of the blade.

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With respect to claim 7, the protrusions are considered to be capable of "snapping" into the recesses, at least as far as such defines any particular structure.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmid et al (WO patent 02/04269) in view of De Block (German patent 19907629).

The patent to Schmid discloses all of the above recited subject matter with the exception of the wiper arm having a U-shaped end with a pivot shaft therein extending between legs thereof that engages with the connecting device.

The patent to De Block discloses a wiper device (figs. 1-3) wherein the wiper arm (14) is U-shaped at the end thereof with a shaft (40) extending between legs (32) thereof. The wiper arm receives a connecting device (46) partially therein by receipt of the shaft into an upwardly opening recess (68). The connecting device engages with the longitudinal strips (44) of the carrier element in known fashion.

It would have been obvious to one of skill in the art to provide the connecting device of Schmid with an upwardly opening recess therein or employ a connecting device as is clearly suggested by De Block such that it can receive a shaft from a U-shaped wiper arm. Such would enable U-shaped wiper arms with transversely extending shafts to be joined to the wiper blade instead of pin-type wiper arms.

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Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmid et al (WO patent 02/04269) in view of Merkel et al (US patent 5,970,569).

The patent to Schmid discloses all of the above recited subject matter with the exception of the connecting pieces being of one piece with the strips.

The patent to Merkel discloses a wiper device (figs.1,4) having a carrier element (12) of spring steel comprised of longitudinal strips (28,30) fitted into opposing grooves (24,26) in wiper blade (14). Ends of the strips are connected via unitary connecting pieces (48).

It would have been obvious to one of skill in the art to provide the connecting pieces of Schmid as unitary connecting pieces, as clearly suggested by Merkel, to reduce the number of component needed to assemble the device.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims (1, 4, 9), 10 and (11,12) are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 8, 9 and 11, respectively, of U.S. Patent No. 7,263,741 in view of Schmid et al (WO patent 02/04269).

The claims of the patent discloses the invention as claimed with the exception of engaging members of the connecting device being welded to the longitudinal strips.

The patent to Schmid discloses all of the above recited subject matter.

It would have been obvious to one of skill in the art to provide engaging members for the claimed connecting device of the '741 patent and weld them to the longitudinal strips, as clearly suggested by Schmid, to provide improved security of the connection and ensure longitudinal fixing. Welding of the connecting device to the strips is clearly suggested by Schmid.

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Claims 1, 9 and 10 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 15, of U.S. Patent No. 7,055,206 in view of Schmid et al (WO patent 02/04269).

The claims of the patent discloses the invention as claimed with the exception of engaging members of the connecting device being welded to the longitudinal strips.

The patent to Schmid discloses all of the above recited subject matter.

It would have been obvious to one of skill in the art to provide engaging members for the claimed connecting device of the '206 patent and weld them to the longitudinal strips, as clearly suggested by Schmid, to provide improved security of the connection and ensure longitudinal fixing. Welding of the connecting device to the strips is clearly suggested by Schmid.

In addition to the above, the examiner is aware of a large number of applications filed by applicant with overlapping subject matter and claim language. Applicant is encouraged to maintain a clear line of demarcation between application subject matter and claims. In those instances where applicant is aware of potentially conflicting claims, applicant is encouraged to file terminal disclaimers, where appropriate, to eliminate or reduce the burden on the office in determining potential double patenting on the large number of applications.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727

GKG
01 March 2009